

REMARKS

Claims 13-17 and 19 are pending in this application.

In the Office Action, claims 13, 14, 16, and 17 stand rejected under 35 U.S.C. §103(a) as unpatentable over either Ota et al. U.S. Patent No. 5,407,086 ("Ota") or Vaillencourt U.S. Patent No. 5,337,909 ("Vaillencourt") in view of Becker U.S. Design Patent No. D187,435 ("Becker"). Claims 13-15 and 17 stand rejected under 35 U.S.C. §103(a) as anticipated by Carew et al. U.S. Patent No. 6,044,996 ("Carew") in view of Becker. Claim 19 is rejected under 35 U.S.C. §103(a) as unpatentable over any one of Ota, Vaillencourt, and Carew and further in view of De Kolb U.S. Patent No. D192,390 or Japanese Patent Publication No. JP-952,570. Claims 13 and 14 stand rejected under 35 U.S.C. §103(a) as unpatentable over any one of Ota, Vaillencourt, and Carew in view of Hager et al. U.S. Design Patent No. D416,480 ("Hager"). The rejection is traversed as follows.

Applicant is unclear regarding the status of the application. The Office Action Summary states, "This action is non-final," however, the conclusion paragraph of the Office Action states, "This action is made final." Therefore, Applicant has not been properly advised as to the status of the application. Due to this error, Applicant respectfully requests that this Office Action be treated as a non-final Office Action.

In the present invention, the bottle main body is generally molded as follows. A polyethylene terephthalate resin material is injected to form a preform of a test tube shape. The preform is heated and the heated preform is placed in blow molds of predetermined shapes and inflated in the circumference direction by blowing pressurized air into the preform while being extended in the longitudinal direction by a stretch rod to form a bottle main body of a shape along the internal surface shapes of the blow molds. When the preform is molded, the thickness

of the wall of the inflated preform becomes thinner as the distance from the center of the preform becomes longer. In case the preform is molded into substantially round shape, the thickness of the wall of the inflated preform is substantially even. When the preform is molded into substantially elliptical shape, the thickness of the wall of the inflated preform on the side close to the center of the preform, that is the wall gradually curved side of the elliptical cross section is thicker compared to the wall on the side remote from the center of the preform.

Independent claim 13 has been amended to more clearly recite these features. The cited references (*i.e.*, Ota, Vaillencourt, Carew, and Becker) fail to teach or suggest the present invention, including a PET bottle having an ornamentation wherein a width of the ornamentation does not exceed an external circumference of the base portion and wherein a wall of the gradually curved side of the elliptical cross section on which at least a portion of the ornamented portion is formed is thicker than a remaining portion of the elliptical cross section. Therefore, it is respectfully submitted that the rejections have been overcome and the claims are in condition for allowance.

The Office Action states "With respect to the elliptical cross section, it is noted that matter relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art." Office Action, ¶ 5. Applicant respectfully traverses.

In view of the above noted characteristics, the present invention has the following technical advantages. For PET bottles having an ornamental portion, damage to the ornamental portion leads to decrease in the value of the products. In the present invention, the PET bottle has substantially elliptical cross-section and the wall of the gradually curved side of the elliptical cross-section is comparatively thick with increased durability. Because the

ornamentation is provided on the side having increased durability, it is less likely that the ornamental portion may be damaged.

In the present invention, decompression panels are provided on the base portion side to avoid deformation and failure of the bottle main body. If the decompression panels do not absorb the reduced pressure completely, the excessive reduced pressure is absorbed by the bottle main body having an ornamentation. Here, if the excessive reduced pressure is not too high, the gradually curved sides of the elliptical cross section move in the direction of a short axis to absorb the reduced pressure. This reduces a likelihood that the pressure will materially affect the overall appearance of the PET bottle or deform the ornamental portion.

Additionally, the ornamental portion is formed on a gradually curved side of the elliptical cross section. When the PET bottles are arranged regularly in a direction in a container for transportation, the distance of the bottles between the gradually curved sides of the elliptical cross section becomes long. Because the ornamental portion is formed on a gradually curved side of the elliptical cross section, it is less likely that the PET bottles bump each other and the ornamental portion is damaged.

Furthermore, a heated preform is placed in blow molds of predetermined shapes and inflated in the circumference direction by blowing pressurized air into the preform to form a bottle main body of a shape along the internal surface shapes of the blow molds. Here, the heated preform cools down as the time passes. The heated preform reaches the blow molds in the direction of the short axis earlier while the temperature of the preform is high. Since the ornamental portion is formed on this side, details of the ornamentation may be improved.


In view of the above, rejections of claims 13-17 and 19 under 35 U.S.C. §102 and 103 have respectfully been traversed.

Conclusion

Based on the foregoing, favorable reconsideration and allowance of the claims is solicited. If necessary, the Commissioner is hereby authorized in this and concurrent replies to charge payment (or credit any overpayment) to Deposit Account No. 50-2298 for any additional fees required under 37 CFR 1.16 or 1.17.

Respectfully submitted,

12/27/04
Date



Mitchell P. Brook, Reg. No. 32,967
Attorney for Applicant(s)
c/o LUCE, FORWARD, HAMILTON & SCRIPPS
11988 El Camino Real, Suite. 200
San Diego, California 92130
Telephone No.: (858) 720-6300